

**A SUBSTITUTE ORDINANCE BY
COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

A SUBSTITUTE ORDINANCE AUTHORIZING THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO VENDING AGREEMENTS FOR THE 2013, 2014, AND 2015 ATLANTA JAZZ FESTIVAL AND ATLANTA MUSIC FESTIVAL IN ATLANTA, AND DIRECTING THAT ALL JAZZ FESTIVAL AND MUSIC FESTIVAL REVENUES AND EXPENSES BE DEPOSITED AND EXPENDED FROM THE ACCOUNTS LISTED BELOW; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) produces two music festivals each year for the benefit of Atlanta citizens, the Atlanta Jazz Festival (“Jazz Festival”) and a second festival held during Labor Day weekend (“Music Festival”) (collectively, the “Festivals”); and

WHEREAS, the Jazz Festival is held throughout the month of May, and includes approximately one hundred (100) free events and approximately five (5) events for which an admission price is charged; and

WHEREAS, the Music Festival is held for up to five (5) consecutive days, including the Labor Day Weekend, and includes approximately ten (10) free events and fifteen (15) events for which an admission price is charged; and

WHEREAS, one way that the City pays for the Festivals is through vending at the Festivals and numerous vendors request the ability to sell and/or advertise their goods at these Festivals, including vendors selling merchandise, and vendors selling food and drinks; and

WHEREAS, the City determines the types and quality of food, drinks, and merchandise that the City desires to have available at the Festivals, and determines the quantity of each type of vendor that is needed at each of the Festivals; and

WHEREAS, based upon the City’s determination of its needs, and the information submitted by vendors, the City selects vendors for each of the Festivals; and

WHEREAS, as the producer of the Festivals, the City must negotiate and enter contracts with each of the vendors that it selects (“Vendor Agreements”); and

WHEREAS, the Vendor Agreements establish that a particular vendor is being hired to vend at one of the Festivals. The City’s payment to the vendor takes the form of producing the Festivals, and thereby providing thousands of potential customers for the vendor. Typically, because of the large number of attendees, and because the number of vendors at the Festivals is limited, vendors at the Festivals derive a tremendous amount of revenue; and

WHEREAS, in addition to providing its vending services for the City, the vendor compensates the City for providing potential customers by paying a contract price. The contract price

required by the City is based on the market rate for the right to vend at a large, well-attended outdoor festival, and is also based on whether the vendor is selling goods or advertising goods. Whether the goods being sold are edible, the cost of the goods being sold, and the size of the space being provided to the vendor; and

WHEREAS, the Vendor Agreements are different from a vending permit received by a vendor wishing to vend on City property (“Vending Permit”). A Vendor Agreement is a revenue generating contract between the City and a vendor, whereby the vendor provides a service for and revenue to the City. In contrast, with Vending Permit, the vendor is not fulfilling a City need, nor providing a specific service for the City. A person desiring a Vending Permit submits an application to the City Police Department, and requests a particular vending location plus two alternatives. If the applicant for the Vending Permit passes the criminal background check, she/he will be placed on a master list and the desired vending location will be assigned on a first come, first served basis; and

WHEREAS, when a private organizer sponsors an outdoor festival, the organizer receives a City Outdoor Festival permit for his/her events, and that permit allows for vending during the festival. The private organizer then contracts with vendors to sell goods and merchandise at the festival, and the vendors are not required to obtain a Vending Permit from the City of Atlanta; and

WHEREAS, similarly, the City of Atlanta Office of Cultural Affairs receives a City Outdoor Festival permit to hold the Jazz and Music Festivals, and this permit allows for vending during the Festivals and precludes the need for vendors at the Festivals to obtain a City Vending Permit; and

WHEREAS, the contract price paid by vendors entering Vendor Agreements for providing services at one of the Festivals is different from the fee paid by vendors receiving a Vending Permit to vend on public property; and

WHEREAS, the Vendor Agreements must be made after the City hires the artists for each of the Festivals, and determines the landscape of each of the festivals. Therefore, the Vendor Agreements must be made within relatively close time proximity to the Festivals, and the City does not have time to select and contract with the Festivals’ vendors in the manner set forth in the City’s Procurement Code; and

WHEREAS, during one or more of the Festivals, the city may determine that it is advantageous to contract with a company to manage all Festival vending. A vending management company would be responsible for selecting, contracting with, coordinating, managing, and handling any and all necessary arrangements regarding any and all Festival vendors (“Vendor Management”) for that portion of the Festival occurring on Memorial Day weekend and/or Labor Day weekend, as applicable; and

WHEREAS, based upon the reduced number of employees in the Office of Cultural Affairs, the office is unable to self perform the Vendor Management for the Jazz Festival or the Music Festival; and

WHEREAS, it is in the City's best interest to contract with a vending management company for the Jazz Festival and the Music Festival so that the City does not forgo a significant revenue generating opportunity; and

WHEREAS, Premier Events, LLC ("Premier") is an experienced vending management company that has provided Vendor Management services at previous Jazz Festivals. The Office of Cultural Affairs recommends that the City contract with Premier, whereby Premier will handle all Vending Management for that portion of the 2013, 2014, and 2015 Jazz Festival occurring on Memorial Day Weekend. The City will also contract with Premier, whereby Premier will handle all Vending Management for that portion of the 2013, 2014, and 2015 Musical Festival occurring on Labor Day weekend.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: The Mayor or his/her designee, on behalf of the City is authorized to enter Vendor Agreements for the 2013, 2014, and/or 2015 Jazz Festival and/or the 2013, 2014 and/or 2015 Music Festival. The Commissioner or his/her designee shall use his/her discretion to establish written criteria by which to select vendors. The written criteria shall further the artistic and business objectives of the Festivals. Upon selection of each vendor, the Commissioner or his/her designee shall document the rationale for each selection, indicating how that selection was consistent with the written criteria. The Vendor Agreements shall indicate, at a minimum, the type of product that the vendor will be selling or advertising, the date and times during which the vending shall be permitted, the location of the vending, the size of the vending area that will be provided by the City, and the contract price to be paid by the vendor. All vending contract prices quoted in the Vendor Agreements shall be for a vending booth at either of the two Festivals, and specifically shall be in the following ranges: the fee for vending merchandise shall be between \$300 through \$2,000; the fee for vending food and/or non-alcoholic drinks shall be between \$750 through \$5,000; and the fee for persons or companies desiring to advertise a particular product at a vending booth shall be between \$1,000 through \$30,000. Lastly, the fee for vending alcoholic drinks, including beer, shall be calculated based upon a percentage of gross receipts, whereby that percentage shall be, at a minimum, 25%. The Commissioner or his/her designee shall develop a schedule of criteria by which the exact vending prices shall be determined, and applied consistently amongst vendors within the same category. The Vendor Agreements shall require each vendor to comply with all rules, regulations, laws, and policies of all governmental entities having jurisdiction over the Festivals, including but not limited to the Fulton County Health Department.

Section 2: The Mayor or his/her designee, on behalf of the City, is authorized to enter an agreement with Premier Events, LLC, whereby Premier shall be responsible for Vending Management for that portion of the 2013, 2014, and/or 2015 Jazz Festival occurring on Memorial Day weekend ("Memorial Day Segment") and the 2013, 2014, and/or 2015 Music Festival occurring on Labor Day Weekend ("Labor Day Segment"). The Vending Management services performed by Premier shall include but not limited to selecting, contracting with, coordinating with, and managing all Memorial and Labor Day segment vendors, and handling any and all necessary arrangements regarding those vendors. In exchange, for this service, the

city shall pay Premier 18% of the vending fees paid by food vendors. Premier shall provide the following service without any charge to the City. Vending Management of all merchandise vendors, Vending Management of all corporate vendors; Consultation services regarding the overall design and layout of the Memorial and Labor Day Segments; and Consultation and assistance with the Memorial and Labor Day Segment sponsors to assure their satisfaction. In addition, Premier will self-perform the vending of alcoholic beverages, including beer, at each of the Festivals. In its capacity as alcoholic beverage vendor, Premier will pay the City 25% of the first \$25,000 of gross receipts it receives from each year's Memorial Day Segment, 25% of the first \$25,000 of gross receipts it receives from each year's Labor Day Segment, 30% of its gross receipts between the amount of \$25,001 through \$40,000 for each of the Festivals each year, and 35% of all gross receipts exceeding \$40,000 for each of the Festivals for each year.

Section 3: All Jazz Festival vending fees shall be deposited into, and all Jazz Festival costs, if any, shall be charged to and paid from:

ADD TO ANTICIPATIONS

7701	FUND	TRUST
140401	GL DEPT	PRC CULTURAL AFFAIRS ADMIN
3710001	REVENUE ACCT	CONTRIBUTIONS/DONATIONS
6110000	FUNCTION/ACTIVITY	CULTURAL/RECREATION ADMIN
600346	GL PROJECT	ATLANTA JAZZ FESTIVAL
69999	GL FUNDING SOURCE	NON CAPITAL TRUST

ADD TO APPROPRIATIONS

7701	FUND	TRUST
140401	GL DEPT	PRC CULTURAL AFFAIRS ADMIN
5212001	EXPENSE ACCT	CONSULTANT/PRO
5222003		REPAIR/MAINTENANCE
5235003		TRAINING TRAVEL/PER DIEM
5311001		SUPPLIES CONSUM
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All Music Festival vending fees shall be deposited into, and all Jazz Festival costs, if any, shall be charged to and paid from:

ADD TO ANTICIPATIONS

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Section 4: All ordinances in conflict herewith are hereby waived for purposed of this Ordinance only, and only to the extent of the conflict.

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WHEREAS, during one or more of the Festivals, the city may determine that it is advantageous to contract with a company to manage all Festival vending. A vending management company would be responsible for selecting, contracting with, coordinating, managing, and handling any and all necessary arrangements regarding any and all Festival vendors ("Vendor Management") for that portion of the Festival occurring on Memorial Day weekend and/or Labor Day weekend, as applicable; and

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ADD TO ANTICIPATIONS

7701	FUND	TRUST
140401	GL DEPT	PRC CULTURAL AFFAIRS ADMIN
3710001	REVENUE ACCT	CONTRIBUTIONS/DONATIONS
6110000	FUNCTION/ACTIVITY	CULTURAL/RECREATION ADMIN
600346	GL PROJECT	ATLANTA JAZZ FESTIVAL
69999	GL FUNDING SOURCE	NON CAPITAL TRUST

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5212001	EXPENSE ACCT	CONSULTANT/PRO
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Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Community Development/Human Resources Committee

Caption: A RESOLUTION BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO VENDING AGREEMENTS FOR THE 2013, 2014, AND 2015 ATLANTA JAZZ FESTIVAL AND ATLANTA MUSIC FESTIVAL IN ATLANTA, AND DIRECTING THAT ALL JAZZ FESTIVAL AND MUSIC FESTIVAL REVENUES AND EXPENSES BE DEPOSITED AND EXPENDED FROM THE ACCOUNTS LISTED BELOW; AND FOR OTHER PURPOSES.

Council Meeting Date: March 4, 2013

Requesting Dept.: Department of Parks, Recreation and Cultural Affairs

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

THE PURPOSE OF THIS LEGISLATION IS AUTHORIZE THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO VENDING AGREEMENTS FOR THE 2013, 2014, AND 2015 ATLANTA JAZZ FESTIVAL AND ATLANTA MUSIC FESTIVAL IN ATLANTA.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

(a) Contract Type:

(b) Source Selection:

(c) Bids/Proposals Due:

(d) Invitations Issued:

- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:**

4. Fund Account Center:

ADD TO ANTICIPATIONS

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600347	GL PROJECT	ATLANTA MUSIC FESTIVAL
69999	GL FUNDING SOURCE	NON CAPITAL TRUST

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Trina Horton, Departmental Contracting Officer

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Trina Horton

Contact Number: (404) 546-6795

Originating Department: Department of Parks, Recreation and Cultural Affairs

Committee(s) of Purview: Community Development/Human Resources Committee

Chief of Staff Deadline: January 25, 2013

Anticipated Committee Meeting Date(s): February 12, 2013

Anticipated Full Council Date: March 4, 2013

Legislative Counsel's Signature: _____

Commissioner's Signature: _____

Chief Information Officer Signature (for IT Procurements) _____

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE BY

COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

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FINANCIAL IMPACT: (if any)

Mayor's Staff Only

Received by CPO: _____
(date)

Received by LC from CPO: _____
(date)

Received by Mayor's Office: Adriano 1-25-13
(date)

Reviewed by: _____
(date)

Submitted to Council: _____ (date)